



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OCT - 6 2014

Rob Gleason, Chairman
Republican Party of PA
112 State Street
Harrisburg, P A 17101

Re: MUR 6735
Joseph A. Sestak, *et al.*

Dear Gleason:

This is in reference to the complaint you filed with the Federal Election Commission on May 14, 2013, and the amendment you filed on November 13, 2013. The Commission found that there was reason to believe that Joseph A. Sestak violated 2 U.S.C. § 432(e)(1) [now 52 U.S.C. § 30102(e)(1)], a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"),¹ by failing to file a Statement of Candidacy within 15 days of becoming a federal candidate. On September, 25, 2014, the Commission accepted a conciliation agreement with Joseph A. Sestak. In addition, the Commission found that there is no reason to believe Friends of Joe Sestak f/k/a Sestak for Senate violated the Act in connection with this matter. Accordingly, the Commission closed the file in this matter on September, 25, 2014.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the agreement with Joseph A. Sestak and the Factual and Legal Analyses regarding the other respondents are enclosed for your information.

¹ On September 1, 2014, the Act was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

14047471008

MUR 6735 (Joseph A. Sestak, *et al.*)
Rob Gleason, Chairman
Republican Party of PA
Page 2 of 2

If you have any questions, please contact me at (202) 694-1650.

Sincerely

A handwritten signature in black ink, appearing to read 'Kamau Philbert', with a stylized flourish extending to the right.

Kamau Philbert
Attorney

Enclosures
Conciliation Agreement
Factual and Legal Analysis

14044364199

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

Joseph A. Sestak

)
)
)
)

MUR 6735

OFFICE OF GENERAL
COUNSEL

2014 SEP -9 PM 12: 25

RECEIVED
FEDERAL ELECTION
COMMISSION

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Rob Gleason, Chair of the Republican Party of Pennsylvania. The Federal Election Commission ("Commission") found reason to believe that Joseph A. Sestak ("Respondent") violated 2 U.S.C. § 432(e)(1).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Joseph A. Sestak is a former Member of Congress from Pennsylvania's 7th Congressional District and was a candidate for U.S. Senate from Pennsylvania in 2010. Sestak's principal campaign committee during the 2010 general election was Sestak for Senate. On March 26, 2013, Sestak for Senate filed an Amended Statement of Organization changing its name to Friends of Joe Sestak (the "Committee"). The first report filed under the name Friends

of Joe Sestak was the 2013 April Quarterly Report, which disclosed \$8,644 beginning cash on hand, as well as \$460,250 in receipts and \$10,185 in disbursements for the first quarter.

2. The Federal Election Campaign Act of 1971, as amended (the "Act") defines candidate as "as individual who seeks nomination for election, or election, to Federal office." 2 U.S.C. § 431(2). An individual shall be deemed to seek nomination for election, or election, when he receives contributions or makes expenditures in excess of \$5,000. *Id.* A candidate is required to designate in writing a principal campaign committee within fifteen days of reaching this \$5,000 threshold. 2 U.S.C. § 432(e)(1).

3. The Commission has created a limited exemption to the definitions of contribution and expenditure — and therefore the \$5,000 candidacy threshold — to allow individuals to conduct certain activities designed to evaluate a potential candidacy (*e.g.*, to "test the waters"). *See* 11 C.F.R. §§ 100.72, 100.131. Funds received and payments made "solely for the purpose of determining whether an individual should become a candidate" are not considered contributions or expenditures under the Act. *Id.*

4. An individual who is testing the waters is not required to register with the Commission unless and until he decides to run for federal office, or conduct activities that indicate he or she has decided to become a candidate. *See* 11 C.F.R. §§ 100.72, 100.131. Commission regulations describe five non-exhaustive examples of activities that indicate an individual is not merely testing the waters, but has decided to become a candidate for federal office. *Id.* One example is an individual making or authorizing written or oral statements that refer to him or her as a candidate for a particular office. *Id.*

5. Beginning June 24, 2013, Friends of Joe Sestak sent at least eight fundraising e-mails in which Sestak or the Committee characterized Sestak as "seek[ing] the U.S. Senate." Some of

14044364201

these e-mails were sent under Sestak's name and included first-person statements such as, "I am honored that Sarah Alfadi is hosting my first fundraising event . . . as I seek the U.S. Senate. I will win because of you [] and your support." Similarly, another e-mail sent under Sestak's name asked, "Would you help me serve you, again? Whether in the Navy, in Congress or now as I seek the U.S. Senate" Another e-mail from the Committee's treasurer invited recipients to "Click here to donate \$160, or whatever you can, joining the thousands of people that will make Joe the 'People's Senator.'" These solicitations did not include any statements indicating that Sestak was undecided and only testing the waters for a possible candidacy.

6. Friends of Joe Sestak has also solicited contributions via e-mails comparing Sestak to incumbent Senator Pat Toomey. One e-mail asked recipients, "While the telecom special interest is supporting Toomey, we have the opportunity to make our choice clear. Who would you rather have?" and then presented them with the options of either "[a] U.S. Senate ideologue" or "[a] Navy Admiral." Another message invited recipients to attend a "competing fundraiser" to be held on the same evening that "a top Comcast executive is holding a fundraiser against Joe for Senator Toomey[.]" Yet another e-mail directly compared the fundraising efforts of Toomey and Sestak: "Your help will assist my catch-up efforts since the Senator has raised \$3 million from 2 and 1/2 years of fundraising (I have raised \$750K these past months)[.]" As with the other solicitations, none of these messages includes any suggestion that the effort involved either testing the waters or an exploratory committee.

7. Sestak became a candidate, and therefore should have filed a Statement of Candidacy with the Commission.

8. The Commission did not find Respondent's failure to file a timely Statement of Candidacy to be a knowing and willful violation of the law.

9. The Committee provided the FEC with telephone records from its telephone service provider showing that Committee personnel made 26 phone calls between December 26, 2012 and May 23, 2013 totaling 2.4 hours to the telephone number for the Commission's Information Division hotline. Respondent contends that these calls were made to obtain guidance on how to maintain the Committee's desired status as a "testing the waters" committee.

V. Respondent violated 2 U.S.C. § 432(e)(1) by failing to file a Statement of Candidacy within 15 days of becoming a federal candidate.

VI. 1. Respondent will pay a civil penalty to the Commission in the amount of Five Hundred Dollars (\$500) pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondent will cease and desist from committing violations of 2 U.S.C. § 432(e)(1).

3. Respondent will file a Statement of Candidacy within 15 days.

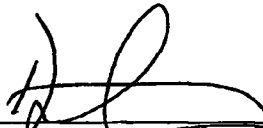
VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained within this written agreement shall be enforceable.


FOR THE COMMISSION:



Daniel A. Petalas
Associate General Counsel
for Enforcement

10/3/14
Date

FOR THE RESPONDENT:



Edwin Wee
Counsel to Joseph A. Sestak

8/26/14
Date

140244042024

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENTS:** Joseph A. Sestak MUR: 6735
6 Friends of Joe Sestak and Edwin Wee
7 in his official capacity as treasurer, f/k/a
8 Sestak for Senate and Margaret Infantino
9 in her official capacity as treasurer
10

11 **I. GENERATION OF MATTER**

12 This matter was generated by a complaint filed by Rob Gleason, Chair of the Republican
13 Party of Pennsylvania. *See* 2 U.S.C. § 437g(a)(1).

14 **II. FACTUAL BACKGROUND**

15 Joseph Sestak is a former Member of Congress from Pennsylvania's 7th Congressional
16 District and was a candidate for the U.S. Senate from Pennsylvania in 2010. Sestak lost the 2010
17 general election, but his campaign committee — Sestak for Senate — continued to file regular
18 disclosure reports with the Commission through the end of 2012. *See* Sestak for Senate 2012
19 Year End Report (Jan. 31, 2013). On its 2012 Year End Report, for the period ending
20 December 31, 2012, Sestak for Senate disclosed \$8,644 ending cash on hand. *Id.* On March 26,
21 2013, Sestak for Senate filed an Amended Statement of Organization changing its name to
22 Friends of Joe Sestak (the "Committee").

1 **A. Friends of Joe Sestak's Financial Activity**

2 As of March 30, 2014, Friends of Joe Sestak has disclosed that it raised a total of
3 \$1,376,984 and spent a total of \$178,714, leaving it with a cash on hand balance of \$1,207,090.¹
4 Friends of Joe Sestak 2014 April Quarterly Report at 3-4 (Apr. 12, 2014).

5 Two weeks after Friends of Joe Sestak filed its 2013 July Quarterly Report, the Reports
6 Analysis Division ("RAD") sent Sestak a "Disavowal Notice" notifying him that Friends of Joe
7 Sestak appeared to have received contributions or made expenditures in support of his 2016
8 candidacy in excess of \$5,000. Letter from Nataliya Ioffe, RAD, FEC, to Joseph A. Sestak
9 (July 26, 2013) ("Disavowal Notice"). The Disavowal Notice asked Sestak to either disavow the
10 Committee's activities or file a Statement of Candidacy. *Id.* Friends of Joe Sestak responded to
11 the Disavowal Notice, stating that it is a "testing the waters committee" that has not conducted
12 any "candidate activities" under Commission regulations. Letter from Edwin Wee, Treasurer,
13 Friends of Joe Sestak to RAD, FEC (Aug. 30, 2013).

14 **B. The Committee's Solicitations**

15 As part of its alleged testing the waters activities, Friends of Joe Sestak has been
16 soliciting contributions via the e-mail address info@joesestak.com. See Supp. Compl.,
17 Attachs. D, E (Nov. 13, 2013). Between June and October 2013, the Committee sent at least
18 eight fundraising e-mails in which Sestak or the Committee characterized Sestak as "seek[ing]
19 the U.S. Senate." *Id.*, Attach. D (providing copies of e-mails dated June 24, June 26, Aug. 27,

¹ The first report filed under the name Friends of Joe Sestak was the 2013 April Quarterly Report, which disclosed \$8,644 beginning cash on hand, as well as \$460,250 in receipts and \$10,185 in disbursements for the first quarter. Friends of Joe Sestak 2013 April Quarterly Report at 3-4 (Apr. 15, 2013). In the second quarter, the Committee disclosed \$209,619 in receipts and \$50,264 in disbursements. Friends of Joe Sestak 2013 July Quarterly Report at 3-4 (July 13, 2013). Its receipts were \$335,346 and its disbursements were \$40,234 during the third quarter. Friends of Joe Sestak 2013 October Quarterly Report at 3-4 (Oct. 15, 2013). In the final quarter of 2013, the Committee's receipts were \$150,326 and its disbursements were \$37,743. Friends of Joe Sestak 2013 Year End Report at 3-4 (Jan. 31, 2013).

1 Aug. 29, Sep. 4, Sep. 23, and Oct. 14, 2013); *id.*, Attach. E (providing copy of e-mail dated
2 Sept. 24, 2013). While some of these e-mails were sent under the name of the Committee or its
3 treasurer, others were sent under Sestak's name and included first-person statements such as, "I
4 am honored that Sarah Alfadi is hosting my first fundraising event . . . as I seek the U.S. Senate.
5 I will win because of you [] and your support." *Id.*, Attach. D (E-mail from Joe Sestak (Aug. 29,
6 2013, 10:10 AM)); *see also id.*, Attach. D (E-mail from Joe Sestak (Aug. 27, 2013, 10:58 AM)
7 ("Would you help me serve you, again? Whether in the Navy, in Congress or as I now seek the
8 U.S. Senate . . .")). Another e-mail invited recipients to "Click here to donate \$160, or whatever
9 you can, joining the thousands of people that will make Joe the 'People's Senator.'" *Id.*, Attach
10 D. (E-mail from Edwin Wee (July 18, 2013, 6:31 AM)). These solicitations did not include any
11 statements indicating that Sestak was undecided and only testing the waters for a possible
12 candidacy.

13 The Committee has also solicited contributions via e-mails comparing Sestak to
14 incumbent Senator Pat Toomey. One e-mail asked recipients, "While the telecom special
15 interest is supporting Toomey, we have the opportunity to make our choice clear. Who would
16 you rather have?" and then presented them with the option of either "[a] U.S. Senate ideologue"
17 or "[a] Navy Admiral." *Id.*, Attach. D (E-mail from Team Sestak (June 24, 2013, 10:09 AM)).
18 Another message invited recipients to attend a "competing fundraiser" to be held on the same
19 evening that "a top Comcast executive is holding a fundraiser against Joe for Senator Toomey[.]"
20 *Id.*, Attach. D, (E-mail from Edwin Wee (July 3, 2013, 2:20 PM)). Yet another e-mail directly
21 compared the fundraising efforts of Toomey and Sestak: "Your help will assist my catch-up
22 efforts since the Senator has raised \$3 million from 2 and 1/2 years of fundraising (I have raised
23 \$750K these past months)[.]" *Id.*, Attach. D (E-mail from Joe Sestak (Aug. 27, 2013,

1 10:58 AM)). As with the other solicitations, none of these messages includes any suggestion that
2 the effort involved either testing the waters or an exploratory committee.

3 **C. Allegations and Responses**

4 Based on the Committee's 2013 receipts and disbursements and the language of its
5 fundraising e-mails, the Complaint alleges that Respondents have violated and continue to
6 violate the Act by failing to file a Statement of Candidacy after triggering candidate status.
7 Compl. at 2-3 (May 14, 2013); Supp. Compl. at 2-4. Specifically, the Complaint alleges that
8 Sestak triggered candidate status on February 9, 2013 — the date on which Friends of Joe Sestak
9 exceeded \$5,000 in contributions — and therefore should have filed a Statement of Candidacy
10 by February 24, 2013. Compl. at 3. The Complaint further alleges that Sestak is raising these
11 funds to use in his campaign rather than for testing the waters activities, and that Sestak's
12 statements indicate that he has already decided to be a candidate.² Compl. at 3; Supp. Compl.
13 at 1, 3-5.

14 Respondents filed two collective Responses denying the allegation and asserting that they
15 are "solely conducting testing the waters activities." Resp. at 1 (June 7, 2013); Supp. Resp. at 1
16 (Dec. 17, 2013). In support of this assertion, they contend that:

- 17 • The amount of funds that Respondents raised "is not 'unreasonable' to test the waters for
18 a Pennsylvania statewide race — where the last race was one of the top ten most
19 expensive races in the country." Resp. at 2; Supp. Resp. at 3.
20
21 • "Respondents have given no indication that [Sestak] has decided to become a candidate —
22 and all the Respondents' activities reflect such." Resp. at 1; Supp. Resp. at 1.
23

² The Complaint also alleges that the Respondents' violations are knowing and willful because they failed to file a Statement of Candidacy after receiving the Disavowal Notice and the Complaint. Supp. Compl. at 5-6.

- 1 • All fundraising by Respondents has been conducted by clearly stating that the committee
2 is a “testing the waters” or “exploratory” committee.³ Resp. at 2; Supp. Resp. at 3.

3 Respondents further assert that they were “guided by the FEC compliance office”
4 throughout the process of forming the exploratory committee and conducting testing the waters
5 activities. Resp. at 1; Supp. Resp. at 1. In their Responses, they state that they initially called
6 the compliance office on December 26, 2012 — before initiating any testing the waters activities.
7 *Id.* They claim that, during this call, a “compliance officer directed the name of the committee to
8 be ‘Friends of Joe Sestak’” and advised them that an example of an “unreasonable” amount of
9 fundraising would be “\$10 million for a race in North Dakota.” Resp. at 1-2. Respondents
10 further claim that the compliance officer “directed the Respondents not to make any statements
11 that Joe Sestak is a candidate” and advised that they use language such as ““seeking the U.S.
12 Senate’ rather than ‘running for U.S. Senate.’” Supp. Resp. at 2. Respondents state that they
13 were in contact with the compliance office several times between December 26, 2012, and
14 May 23, 2013, and that these phone calls “confirm[ed] that the Respondents’ fundraising process
15 was ‘reasonable,’ in compliance with testing the waters regulations, and that the Respondents
16 complied with every FEC law and regulation[.]” Resp. at 2; Supp. Resp. at 2, Attach. C (listing
17 the dates and times of these phone calls).

18 Notwithstanding Respondents’ assertion, RAD maintains detailed telephone logs of all
19 contacts with committees, and it has no record of any telephone calls from Friends of Joe Sestak

20

³ Respondents also assert that all funds raised comply with the Act’s contribution limits and prohibitions; Respondents kept and disclosed the Committee’s financial transactions; funds have been kept in a segregated testing the waters bank account; testing the waters activity did not begin less than 90 days before the relevant election; and Respondents have not taken any action to qualify for the ballot. Resp. at 2-3; Supp. Resp. at 3.

until May 28, 2013, when the committee inquired about the Complaint in this matter.⁴

III. LEGAL ANALYSIS

Under the Federal Election Campaign Act of 1971, as amended (the "Act"), "an individual who seeks nomination for election, or election, to Federal office" is a candidate and "shall be deemed to seek nomination for election, or election" when he receives contributions or makes expenditures in excess of \$5,000. 2 U.S.C. § 431(2). A candidate is required to designate in writing a principal campaign committee within fifteen days of reaching this \$5,000 threshold. *Id.* § 432(e)(1). The designated principal campaign committee, in turn, is required to file a Statement of Organization within ten days of designation or, alternatively, report any change in information previously submitted on its Statement of Organization within ten days of the change. *Id.* § 433(a), (c).

The Commission has created a limited exemption to the definitions of contribution and expenditure — and therefore to the \$5,000 candidacy threshold — to allow individuals to conduct certain activities designed to evaluate a potential candidacy (e.g., to "test the waters"). See 11 C.F.R. §§ 100.72, 100.131. Funds received and payments made "solely for the purpose of determining whether an individual should become a candidate" are not considered contributions or expenditures under the Act. *Id.* These funds, however, are subject to the limitations and prohibitions of the Act. *Id.*

An individual who is testing the waters is not required to register with the Commission unless the individual conducts activities that indicate he or she has decided to become a candidate. See *id.* Commission regulations describe five non-exhaustive examples of activities

⁴ It is possible that instead of contacting the Office of Compliance, Respondents spoke to staff from either the Office of Communication's Information Division or the Office of the General Counsel's Policy Division. The Commission is informed, however, that none of the Information or Policy Division's staff recalls any contact with the Committee between December 2012 and May 2013.

that indicate that an individual is not merely testing the waters, but has decided to become a candidate for federal office:

- (1) The individual uses general public political advertising to publicize his or her intention to campaign for Federal office;
- (2) The individual raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate;
- (3) The individual makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office;
- (4) The individual conducts activities in close proximity to the election or over a protracted period of time; and
- (5) The individual has taken action to qualify for the ballot under State law. *Id.*

In this matter, statements in Committee fundraising e-mails that refer to Sestak as a candidate indicate that he had decided to run for federal office.

A. Statements Referring to Candidacy

The statements in Respondents' fundraising e-mails publicly and specifically refer to Sestak as a Senate candidate, thus indicating his decision to run for office as a United States Senator and the inapplicability of the testing the waters exemption to the Committee's contributions and expenditures.

First, as detailed above, Respondents sent at least eight e-mails from the Committee's email address over the course of four months clearly establishing that Sestak had decided to "seek" election to the U.S. Senate, including emails from the Committee as early as June 24 and 26, 2013, soliciting supporters to "... support Joe Sestak to seek the U.S. Senate" and an email from Sestak on August 27, 2013, asking, "Would you help me serve you, again? Whether in the Navy, in Congress or as I now seek the U.S. Senate . . ." See Supp. Compl., Attachs. D, E.

1 Although Respondents draw a distinction between the phrases “seeking office” and
2 “running for office,” Supp. Resp. at 2, the plain text of the Act defines a candidate as an
3 individual “who seeks . . . election[] to Federal office.” 2 U.S.C. § 431(2). Accordingly, when
4 the Commission considered the use of the term “seeking” in a previous matter, it concluded that
5 an individual had crossed the line from testing the waters to candidate status when, among other
6 things, he wrote that “I am seeking the Presidency of the United States.” Factual & Legal
7 Analysis at 4, 7, MUR 5363 (Sharpton).

8 Furthermore, when characterizing Sestak’s purpose for soliciting funds as part of an
9 effort to “seek” federal office, those messages did not indicate in any respect that Sestak was
10 simply testing the waters for a potential run or exploring the option of candidacy. *See* Supp.
11 Compl., Attachs. D, E. Instead, the messages stated that Sestak was seeking office in
12 combination with other phrases further indicating that Sestak had decided to become a candidate
13 for federal office, such as “I will win because of you [] and your support.” Supp. Compl.,
14 Attach. D (E-mail from Joe Sestak (Aug. 29, 2013, 10:10 AM)).

15 Respondents do not dispute the authenticity of the e-mails. Instead, they claim that the
16 “FEC compliance office” provided advice concerning the language of the e-mails and
17 “confirmed . . . that the Respondents complied with every FEC law and regulation[.]” *See* Resp.
18 at 2. These assertions are inconsistent with other information in the record before the
19 Commission. The Office of Compliance’s Reports Analysis Division maintains detailed
20 telephone contact logs, but has no record that it received any call from the Committee at the
21 times the Committee identifies in its Supplemental Response, or discussing the topic of testing
22 the waters on the occasion that the Committee did contact that office. Likewise, although the
23 Information Division does not maintain formal records concerning telephone inquiries from the

20140611041

1 public, none of its staffers recall speaking with the Committee during the relevant timeframe and
2 the dates and times also do not correspond to any emails that the Information Division sent in
3 response to email inquiries. Moreover, the Division indicates that it does not offer advice
4 concerning testing the waters or exploratory committee status outside the scope of the guidance
5 published in the Commission's regulations and Campaign Guide.

6 Furthermore, despite the Committee's assertion that all of its fundraising materials
7 explicitly state that it is a testing the waters or exploratory committee, Supp. Resp. at 2-3, none
8 of the e-mails attached to the Supplemental Complaint contain any such information.⁵ See Supp.
9 Compl., Attachs. D, E.

10 Given Sestak and the Committee's own statements concerning Sestak's purpose in
11 soliciting funds, the Commission concludes that under the Act and the Commission's testing the
12 waters regulation, consistent with prior Commission decisions, Sestak had decided to run for
13 federal office and thus became a candidate.⁶

14 B. Conclusion

15 The Commission found reason to believe that Sestak violated 2 U.S.C. § 432(e)(1) by
16 failing to file a Statement of Candidacy within 15 days of becoming a candidate. That Section
17 does not apply liability to the campaign committee of a candidate, however, and the Committee
18 is properly registered and filing reports with the Commission in accordance with 2 U.S.C.

⁵ The Committee submitted a copy of its website's "contributions" page, which identifies Friends of Joe Sestak as an exploratory committee. See Supp. Resp., Attach. B. Possibly, then, the Committee's assertion is premised on the view that its fundraising e-mail solicitations provide a link to this contributions page. This is simply surmising, however, as the Committee did not make that claim, and further, it is not known whether all of the fundraising e-mails in fact provide a link to that page. Even if so, Sestak and the Committee's references to Sestak's ambitions for federal office in the communications submitted with the Complaints in this matter provide ample reason to believe that Sestak had decided to run for office, regardless of any statements contained on the Committee's contributions webpage.

⁶ It is possible that Sestak or the Committee previously made similar statements that are not reflected in the current record. Nonetheless, because the Committee has filed all reports required regardless of the date on which Sestak concluded he would run for office, further investigation to confirm that date is not warranted here.

- 1 §§ 433(a) and 434(b). The Commission therefore found no reason to believe that the Committee
- 2 violated the Act in connection with this matter.⁷

⁷ The Complainant further alleges that the violation is knowing and willful based on Sestak's failure to file a Statement of Candidacy following the Respondents' receipt of the Complaint and RAD's Disavowal Notice. Supp. Compl. at 4-5. The Commission did not make such a finding, as there is no basis to conclude on the current record that the Respondents intentionally rejected a known legal obligation.